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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,412	12/04/2000	Jae H. Shim	7015-006	7201

7590 05/19/2004

JAE SHIM
5944 KILLARNEY CIRCLE
SAN JOSE, CA 95138

EXAMINER

VUONG, QUOCHIE B

ART UNIT	PAPER NUMBER
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2685

DATE MAILED: 05/19/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/730,412

Applicant(s)

SHIM ET AL.

Examiner

Quochien B Vuong

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2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 6, 9-13, 16, 17 and 20-22 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 7, 8, 14, 15, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's response filed on 02/24/04. Claims 1-22 are now pending in the present application. **This action is made final.**

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 5, 6, 9-13, 16, 17, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon (US 5,884,156) in view of Hiraiwa (JP 05-183621 English translation) (as cited in Nakano (US 6,154,538) in the previous Office action (paper #4)).

As to claims 1 and 12, Gordon discloses controlling operation of a radiotelephone comprising determining if a radiotelephone is activated for use (see column 4 lines 34-43 which discloses determining which mode of operation is activated); determining when the radiotelephone is within a selected proximity zone of a radiotelephone user (see column 3 line 49 to column 4 line 18). Gordon further discloses controlling the volume of the radiotelephone in response to whether or not the radiotelephone is within a predetermined range (see column 3 line 49 to column 5 line 27). Gordon, however, fails to disclose estimating a distance d between the radiotelephone and the user, and adjusting a volume control for a radiotelephone speaker according to the estimated distance d as claimed. Hiraiwa discloses estimating a distance d between the radiotelephone and the user, and adjusting a radiotelephone speaker volume control and a microphone gain control according to the estimated distance (see paragraphs [0015] – [0019]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Hiraiwa to Gordon, in order to ensure that the user can hear the output from the speaker, and that the microphone can pick up the user's voice when the distance between the user and the radiotelephone varies.

As to claims 2 and 13, see Gordon, column 5 lines 2-7.

As to claims 5 and 16, the combination of Gordon and Hiraiwa discloses the claimed limitations (see Hiraiwa paragraphs [0015] – [0019]).

As to claims 6 and 17, the above combination of Gordon and Hiraiwa discloses the claimed limitations (see Hiraiwa paragraphs [0015] – [0019]).

As to claims 7 and 18, combination does disclose adjusting the microphone gain control is adjusted the same as that of the speaker volume control in response to the distance (see Hiraiwa paragraphs [0015] – [0019]).

As to claims 9 and 20, see Gordon, column 3 line 58 to column 4 line 8.

As to claims 10 and 21, see Gordon, column 3 line 58 to column 4 line 8. In this case, the indicium as claimed reads on the frequency and the strength of the infrared signal.

As to claims 11 and 22, the above combination fails to disclose that the proximity sensor 20 compares a temperature of a selected surface with a threshold temperature of 32 degrees. The examiner, however, takes Official Notice that such a proximity sensor is known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the above conventional sensor to the above combination of Gordon and Hiraiwa, in order to have a different way of detecting if the radiotelephone is within a predetermined range.

Allowable Subject Matter

4. Claims 3, 4, 7, 8, 14, 15, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 3, 7, 14, and 18, Gordon and Hiraiwa disclose providing a minimum value and maximum value of the speaker volume (see Gordon, column 4 lines 44-50; and Hiraiwa paragraphs [0015] – [0019]). However, Gordon and Hiraiwa either

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alone or in combination fails to disclose varying the speaker volume monotonically with the distance *d* as recited in the claim.

Response to Arguments

5. Applicant's arguments with respect to claims 1, 2, 5, 6, 9-13, 16, 17, and 20-22 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments with respect to claims 3, 4, 7, 8, 14, 15, 18, and 19 have been fully considered and are persuasive. The rejection of claims 3, 4, 7, 8, 14, 15, 18, and 19 has been withdrawn. Claims 3, 4, 7, 8, 14, 15, 18, and 19 are now objected to as indicated above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any response to this action should be mailed to:

BOX A. F.

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington VA 22202, FI 6th.

Any inquiry concerning this communication from the examiner should be directed to Quochien B. Vuong whose telephone number is (703) 306-4530. The examiner can normally be reached on Monday through Friday from 9:30 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost, can be reached on (703) 305-4778.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer service whose telephone number is (703) 306-0377.



**QUOCHIE B. VUONG
PRIMARY EXAMINER**

Quochien B. Vuong

May 12, 2004.